

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:

The Service Employees International Union,
Service Employees International Union Local 250,
Mr. Sal Rosselli, and Mr. John Borsos.

Respondents.

Matter Under Review 5437

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**JOINT RESPONSE OF THE SERVICE EMPLOYEES INTERNATIONAL UNION
COMMITTEE ON POLITICAL EDUCATION,
SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 250,
MR. SAL ROSSELLI, AND MR. JOHN BORSOS**

I. INTRODUCTION

On behalf of the Service Employees International Union Committee on Political Education ("SEIU COPE"), the Service Employees International Union Local 250 ("Local 250"), Mr. Sal Rosselli, and Mr. John Borsos (collectively, the "Respondents"), we respectfully submit the following joint response to the complaint filed in the above captioned matter under review.

The complainant, Mr. Timothy Bonifay, alleges that "an extremely high percentage" of Local 250 members are undocumented immigrants and that Local 250 "exploits these worker's lack of knowledge of rights and capitalizes on their 'indebtedness' to the union to sign a

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document called a COPE (Committee on Political Education) form.” Letter of Bonifay to FEC, March 18, 2004 (“Letter of Bonifay”).

Mr. Bonifay also alleges that voluntary political activity on the part of Local 250 members is “mandatory under threat of discipline if not done.” *Id.*

In response, we aver that each of Mr. Bonifay’s allegations are unsupported and without foundation. Mr. Bonifay has ample motive to make these scurrilous allegations in that he is the defendant in a civil complaint filed by Local 250 in the Superior Court of the State of California, Alameda County, on March 2, 2004 – a complaint filed two weeks prior to Mr. Bonifay’s letter to the FEC. See Superior Court of California Complaint, *SEIU Local 250 v. Bonifay, et. al.*, Case No. RG04143696 (“Superior Court complaint” or “*Local 250 v. Bonifay*”), March 2, 2004, attached hereto as Exhibit 1.

In the Superior Court complaint, Mr. Bonifay is accused of violating the Taft-Hartley Act and of committing fraud, among other violations of state and federal law. Given the serious nature of the complaint filed against Mr. Bonifay, we can only assume that by making these false allegations Mr. Bonifay hopes to gain some advantage or leverage over Local 250.

Mr. Bonifay’s claim that he resigned from Local 250 “in part due to a discovery of widespread egregious and illegal PAC fundraising” is equally preposterous. Clearly, this claim is nothing more than an attempt by Mr. Bonifay to boost his credibility in light of the fraud complaint filed against him. As we demonstrate below, since 2003, Mr. Bonifay has engaged in systematic illegal conduct against Local 250 in violation of federal and state law and is now facing serious charges related to these activities.

For these reasons, Respondents respectfully request that the Commission dismiss this matter under review and close the file.

II. BACKGROUND

Local 250 consists of several divisions and represents numerous bargaining units, including several thousand employees in the emergency medical transport industry. One of these bargaining units, American Medical Response West ("AMR West"), consists of several hundred Local 250 members.

Local 250 is the collective bargaining representative of workers employed by AMR West. Acting as their representative, Local 250 has entered into a collective bargaining agreement with AMR West governing the terms and conditions of their employment. Under the terms of this collective bargaining agreement, AMR West is obligated to remit to Local 250 dues and other funds deducted from the pay of workers covered by the agreement pursuant to their individual authorizations.

Mr. Bonifay was an employee and agent of Local 250, employed as a Field Representative/Organizer in Local 250's EMT Division. As alleged in *Local 250 v. Bonifay*, since 2003, Mr. Bonifay and his co-conspirators, Mr. Toren Colcord and Ms. Stacy Rutherford, while still employed by Local 250, used trade secrets and information gained by virtue of their positions with Local 250, to clandestinely attempt to induce and solicit Local 250 members who are employed by AMR West to sever their affiliation with Local 250 and retain Mr. Bonifay and the other co-conspirators to be their collective bargaining representative. Mr. Bonifay and his co-conspirators did not inform Local 250 of any contemplated disaffiliation, and, further, arranged for representatives of Local 250 to be denied knowledge of these meetings. In furtherance of their conspiracy, Mr. Bonifay and the co-conspirators deliberately and willfully presented Local 250 with false and fraudulent timesheets misrepresenting their activities.

Pursuant to these illegal activities, on March 2, 2004, Local 250 filed the attached complaint against Mr. Bonifay and his co-conspirators in Superior Court. Two weeks later, Mr. Bonifay sent his letter to the FEC making the false allegations that are the subject of this mater under review.

III. MR. BONIFAY'S ALLEGATIONS AGAINST LOCAL 250

With regard to Mr. Bonifay's allegations that Local 250 "exploits these worker's lack of knowledge of rights and capitalizes on their 'indebtedness' to the union to sign a document called a COPE (Committee on Political Education) form," Local 250 avers that at no time was it informed that any contributor to SEIU COPE was not a U.S. citizen or was otherwise prohibited from contributing to SEIU COPE.

Moreover, Local 250 has endeavored to ensure that any contributions to SEIU COPE comply with local, state, and federal law. To this end, Local 250 only accepts contributions from U.S. citizens, though the Federal Election Campaign Act permits non-citizens admitted for lawful permanent residence to contribute to a federal political committee such as COPE. More specifically, Local 250 does not accept any contribution to SEIU COPE unless the contributor affirms in writing that he or she is a United States citizen. See SEIU COPE Local 250 Check-Off Authorization form, attached hereto as Exhibit 2.

In addition, all members of Local 250 are presumed to be lawfully admitted to the United States. All U.S. employers are required by federal law to maintain a Form I-9 Employment Eligibility Verification in its own files for 3 years after the date of hire or 1 year after the date the employee's employment is terminated, whichever is later.¹ Verifying and

¹ The Immigration Reform and Control Act made all U.S. employers responsible to verify the employment eligibility and identity of all employees hired to work in the United States after

maintaining these forms is the responsibility of the employer and not of the labor union of which the employee is a member. Nevertheless, neither SEIU nor Local 250 has to their knowledge accepted any impermissible contributions related to the allegations made by Mr. Bonifay.

Furthermore, Mr. Bonifay's allegation that "when asked at a staff meeting of the legality of collecting PAC dollars from illegal immigrants, Union Administrator and VP John Borsos replied, 'Don't ask, don't tell,'" is false and no such statement was ever made by Mr. Borsos.²

Likewise, Mr. Bonifay's allegations that Local 250 members were forced to engage in political activity under "threat of discipline" is equally unfounded. Like many labor unions, Local 250 organizes volunteers to engage in political activity. However, the decision to participate in this activity is completely voluntary. The voluntary nature of this activity is made clear in materials distributed to Local 250 members wishing to engage in political activity on behalf of Local 250. As the attached memorandum titled "March Primary Voluntary Shifts" indicates, Local 250 uses "volunteer sign up sheets" and "recruit[s] . . . members" to engage in political activity, and any suggestion by Mr. Bonifay that Local 250 uses threats to coerce members to participate is false. See Memorandum to Local 250 staff,

("Continued")

November 6, 1986, including reviewing identity documentation presented by the employee. To implement the law, employers are required to complete Employment Eligibility Verification forms (Form I-9) for all employees, including U.S. citizens.

² Mr. Bonifay states in his letter to the FEC that he "can procure additional names of individuals who can verify my statements as true." If, in fact, Mr. Bonifay names any additional individuals to "verify" his false allegations, we suspect that these individuals will be the same persons named in the complaint by Local 250 against Mr. Bonifay; specifically, Mr. Colcord and Ms. Rutherford

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titled "March Primary Voluntary Shifts," January 26, 2004, attached hereto as Exhibit 3
(emphasis added).

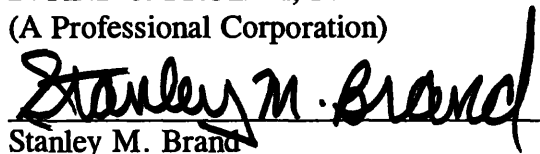
IV. CONCLUSION

Mr. Bonifay, apparently motivated by Local 250's complaint against him in *Local 250 v. Bonifay, et. al.*, has made the false allegations against Local 250 that are the subject of this matter under review. The Respondents have always endeavored to comply with local, state and federal laws, particularly with regard to SEIU COPE and Local 250 political activity, and will continue to do so.

For the foregoing reasons, Respondents respectfully request that the Commission dismiss this matter under review and close the file.

Respectfully submitted,

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EXHIBIT 1

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ENDORSED
FILED
ALAMEDA COUNTY

MAR 02 2004

CLERK OF THE SUPERIOR COURT
By Alphonsine Oates, Deputy

6 Attorneys for Plaintiffs

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF ALAMEDA

11 SERVICE EMPLOYEES INTERNATIONAL)
UNION LOCAL 250, HEALTHCARE)
12 WORKERS UNION, AFL-CIO, an)
unincorporated association; and BILL BOWER,)
13 an individual, and as the Representative of the)
Members of Healthcare Workers Union Local)
14 250,

15 Plaintiffs,

16 v.

17 TIMOTHY BONIFAY, TOREN COLCORD,
and STACY RUTHERFORD, and DOES 1
18 through 100, inclusive,

19 Defendants.

Case No. **RG 04143696**

) **COMPLAINT FOR DAMAGES;**
) **UNFAIR BUSINESS PRACTICES;**
) **BREACH OF FIDUCIARY DUTY;**
) **TORTIOUS INTERFERENCE WITH**
) **CONTRACTUAL RELATIONSHIPS;**
) **TORTIOUS INTERFERENCE WITH**
) **BUSINESS RELATIONSHIPS;**
) **INDUCEMENT OF BREACH OF**
) **CONTRACT; INTERFERENCE WITH**
) **PROSPECTIVE ECONOMIC**
) **ADVANTAGES; FRAUD; FOR**
) **INJUNCTIVE RELIEF AND FOR**
) **ATTORNEYS' FEES.**

20 **I. INTRODUCTION**

21
22 This is an action brought by Plaintiffs Service Employees International Union LOCAL 250,
23 Health Care Workers Union, AFL-CIO, (hereinafter Local 250), a labor organization organized
24 pursuant to the laws of the United States and a California unincorporated association; and Bill
25 Bower, employee of American Medical Response and member of the EMT Division of Local 250,
26 in his individual capacity and his capacity as representatives of the members of Local 250, against
27 Defendants Timothy Bonifay , Toren Colcord, and Stacy Rutherford, as well as other as yet

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unnamed defendants; alleging unfair business practices, violations of the Labor-Management Reporting and Disclosure Act, violations of the Labor-Management Relations Act, breach of fiduciary obligations, interference with business relationships, interference with contractual relationships, interference with prospective business opportunities, fraud, and inducing breach of contract.

Plaintiff seeks restitution, statutory penalties, contractual damages and exemplary damages, disgorgement, declaratory and other equitable relief, including an equitable accounting, injunctive relief, attorneys' fees and costs of suit.

1. Plaintiff Health Care Workers Union Local 250, affiliated with the Service Employees International Union, AFL-CIO, is a labor organization within the meaning of the Labor-Management Relations Act, and the Labor-Management Reporting and Disclosure Act, 29 U.S.C., section 150, et seq., 29 U.S.C. section 501, et seq., and is a California unincorporated association. It represents employees for purposes of collective bargaining regarding their terms and conditions of employment. Its principal place of business is in Oakland, California.

2. Plaintiff Bill Bower is an individual, a member of Health Care Workers Union Local 250 and an employee of American Medical Response. He is a member of the EMT Division of Local 250. He brings this action in his representative capacity on behalf of the members of Local 250.

3. Defendants Timothy Bonifay, Toren Colcord, and Stacy Rutherford are "persons" as defined in Business & Professions Code §17201.

4. Plaintiff is ignorant of the true names of other individual defendants herein and will, upon ascertaining their correct names and upon leave of Court, seek to amend this Complaint to specify said names.

5. At all times material herein, defendants acted as the agents of one another, and acted within the course and scope of their agency.

6. Venue is proper because defendant Stacy Rutherford resides in Alameda County.

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II. FACTUAL ALLEGATIONS

7. At all times material herein, plaintiff Health Care Workers Union Local 250 ("Local 250") has been a labor organization representing approximately 90,000 workers in the state of California. Its principal place of business is Oakland, California, in the County of Alameda.

8. Plaintiff Local 250 consists of several divisions and represents numerous bargaining units, including several thousand employees in the emergency medical transport industry.

9. One of these bargaining units consists of several hundred employees ("Local 250 members") of the emergency medical transport company, American Medical Response West or AMR West ("AMR West").

10. As to the unit named in the paragraph above, Local 250 for many years has enjoyed a contractual relationship with AMR West, under the terms of which Local 250 was responsible for providing the full range of representative services to the employees in the bargaining unit, including negotiating their collective bargaining agreements or memorandums of understanding, and representing the members in all matters concerning the terms and conditions of their employment. In exchange for said services, AMR West is obligated to remit to Local 250 the normal dues and initiation fees of the members as well as service fees for any non-members.

11. At all times material herein up to and including February 25, 2004, defendant Bonifay was an employee and agent of Local 250, employed in the position of Field Representative/Organizer in Local 250's EMT Division. In said capacities, he was responsible for servicing and enforcing the agreement described above on behalf of Plaintiff Local 250 and the members of Local 250.

12. At all times material herein up to and including February 25, 2004, defendant Colcord was an employee and agent of Local 250, employed in the position of Field Representative/Organizer in Local 250's EMT Division, and was responsible for servicing and enforcing the agreement described above on behalf of Plaintiff Local 250 and the members of Local 250.

13. At all times material herein up to and including February 25, 2004, defendant Stacy

1 Rutherford was an employee and agent of Local 250, employed in the position of Field
2 Representative/Organizer in Local 250's EMT Division, and was responsible for servicing and
3 enforcing the agreement described above on behalf of Plaintiff Local 250 and the members of
4 Local 250.

5 14. Commencing on an unknown date in 2003, defendants Bonifay, Colcord and
6 Rutherford, while still employed by Local 250, acting in conspiracy with each other, and other
7 Does, and by using their positions with Local 250 and trade secrets, information and knowledge
8 they gained therefrom, clandestinely attempted to induce and solicit Local 250 members who are
9 employees of AMR West to sever their affiliation with Local 250 and to breach the agreement with
10 AMR West.

11 15. In furtherance of the scheme and design described in the paragraphs above and
12 while still employees of Local 250, Bonifay, Colcord, and Rutherford surreptitiously arranged,
13 without notice to Local 250, to meet with members for purposes of inducing and soliciting said
14 members to sever their relationship with Local 250 and retain Bonifay, Colcord, and Rutherford to
15 be their service providers as officers of a different organization, instead.

16 16. Defendants Bonifay, Colcord, and Rutherford did not inform representatives of
17 Local 250 of any contemplated disaffiliation, and in fact Defendants conducted their meetings
18 clandestinely, and arranged for representatives of Local 250 to be denied knowledge of these
19 meetings. Defendants purposes in these secret arrangements were to induce the members to quit
20 Local 250 as their bargaining representative and retain Defendants in Local 250's stead.

21 17. If Defendants had succeeded in undermining Local 250, Local 250 would have been
22 deprived of its membership, deprived of their dues, fees and service fees which it had hitherto
23 received in exchange for the services rendered, performed on behalf of the members.

24 18. During his employment with Local 250, Defendant Bonifay was responsible for
25 servicing and enforcing the agreement with AMR West.

26 19 During his employment with Local 250, Defendant Colcord was responsible for
27 servicing and enforcing the agreement with AMR West.

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1 20. During employment with Local 250, Defendant Rutherford was responsible for
2 servicing and enforcing the agreement with AMR West.

3 21. Defendants sought to induce this based upon their knowledge of and the use of the
4 assets of Local 250 that they obtained as representatives of Local 250, including but not limited to
5 its trade secrets, its private information, its membership rosters and membership lists, computer
6 hardware and software, and telephones and telecommunication equipment.

7 22. Defendants engaged in this surreptitious conspiracy while employed by Local 250,
8 and deliberately and willfully presented Local 250 with false and fraudulent timesheets
9 misrepresenting their activities, as though they were engaged in working solely for Local 250 at all
10 relevant times, when they were in fact engaged in secret meetings to induce members to quit Local
11 250 and inducing them to breach the contract with AMR West.

12 **III. FIRST CAUSE OF ACTION**
13 **(VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200)**

14 23. Plaintiff Local 250 and the individual Plaintiff incorporate by reference as though
15 fully set forth the allegations of paragraphs 1 through and including paragraph 19 above.

16 24. California Business & Professions Code section 17200, et seq. prohibits unfair
17 competition in the form of any unlawful, unfair, deceptive or fraudulent business practices.

18 25. Beginning on an exact date unknown to Plaintiffs at the present time, defendants
19 engaged in unlawful acts, as defined by California Business & Professions Code section 17200.
20 Beginning on an unknown date in 2003, defendants engaged in unlawful acts as defined by
21 California Business & Professions Code section 17200.

22 26. The defendants have engaged in unlawful and unfair business practices, including
23 but not limited to, the following:

24 **A. BREACH OF FIDUCIARY DUTY**

25 27. The defendants have breached the fiduciary duties owed toward Local 250 and its
26 members by converting Local 250's assets and property to their own use and the use of another, by
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1 inducing the members to terminate their relationships with Local 250 and to retain them instead.
2 The defendants have also breached their fiduciary duties by misusing the knowledge and assets
3 gained during their employment by Local 250, in attempting to induce members to decertify Local
4 250 as their bargaining representative, withdraw their membership from Local 250 and retain
5 defendants as their bargaining representatives.

6 **B. VIOLATION OF THE TAFT-HARTLEY ACT, § 302**

7 28. Defendants violated Section 302(b) of the Labor-Management Relations Act, 29
8 U.S.C. §186(b), by accepting something of value from AMR West, in consideration of inducing
9 members of Local 250 to disaffiliate from Local 250.

10 **C. INTERFERENCE WITH BUSINESS RELATIONS**

11 29. Defendants intentionally interfered with the business relations between the AMR
12 West and Local 250 by inducing the Local 250 members to sever their affiliation with Local 250
13 and instead to retain Defendants to perform the services previously performed by Local 250 for
14 purposes of securing such revenues to themselves.

15 **D. BREACH OF CONTRACT**

16 30. The agreement between AMR West and Local 250 is based on the fact that Local
17 250 has been certified as the exclusive bargaining representative of AMR West employees in
18 Northern California. Defendants were the persons responsible for providing the performance of
19 the services agreed to under this contract. Defendants induced the members to withdraw their
20 support and membership with Local 250 and instead elect an employee association created by
21 Defendants so as to accrue benefits to defendants.

22 **E. INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

23 31. Defendants intentionally interfered with Local 250's relationship with AMR West
24 and its employees, thereby causing Local 250 to be deprived of their prospective economic
25 advantages in the form of future Union dues, and membership fees.
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1 **F. FRAUD**

2 32. Defendants willfully and deliberately, with intent to defraud Local 250, submitted
3 false timesheets misrepresenting what they were doing during work hours, to represent that they
4 were working on projects for Local 250, when they were in fact engaged in a surreptitious
5 conspiracy to undermine Local 250 and work directly contrary to the interests of their employer,
6 Local 250, and instead worked for a competitor of Local 250, in order to secure reliance of Local
7 250 on said misrepresentations so that Local 250 would pay them salaries for work not performed
8 for Local 250 during at least the six months immediately prior to February, 2004.

9 33. The violation of these laws and the commission of these torts serve as unlawful
10 predicate acts for the purposes of Business & Professions Code section 17200, and the remedies
11 therefor are provided under Business & Professions Code section 17203.

12 34. The acts and practices described above constitute unlawful, unfair and fraudulent
13 business practices within the meaning of section 17200 of the Business & Professions Code.

14 35. As a direct and proximate result of the aforementioned acts and conduct of
15 defendants, defendants received and continue to hold ill-gotten gains rightfully belonging to
16 Plaintiff, Local 250, in that defendants have profited in that amount by their unlawful practices.

17 36. Business & Professions Code section 17203 provides that this Court may restore to
18 any person an interest in any money or property which may have been acquired by means of such
19 unfair practices. Accordingly, Plaintiff's members are entitled to restitution pursuant to Business
20 & Professions Code sections 17203 and 17208 for all dues, fees and service fees denied them as a
21 result of defendants' misconduct in the four-year period prior to the filing of this Complaint.
22 Plaintiffs will, upon leave of this Court, amend this Complaint to state such amounts when they
23 have been ascertained.

24 37. Injunctive relief is necessary and appropriate to prevent defendants from continuing
25 their unlawful business practices.

26 38. Plaintiffs herein take upon themselves enforcement of these laws and lawful claims.
27 There is a financial burden incurred in pursuing this action, and it would be against the interest of

1 justice to penalize Plaintiffs by forcing them to pay attorneys' fees for the recovery in this action
2 Therefore, attorneys' fees are appropriate, pursuant to Code of Civil Procedure, section 1021.5

3 WHEREFORE, Plaintiffs pray judgment on the First Cause of Action as set forth
4 hereinbelow.

5 **IV. SECOND CAUSE OF ACTION**
6 **(Breach Of Fiduciary Obligations, Labor Management Reporting & Disclosure Act § 501,**
7 **29 U.S.C. § 501)**

8 39. Plaintiff Health Care Workers Union Local 250 and the individual Plaintiff
9 incorporate by reference as though fully set forth the allegations of paragraphs 1 through and
10 including paragraph 34 above.

11 40. At all times material herein, Plaintiff Local 250 has been a labor organization
12 organized under federal labor law, within the meaning of section 2(5) of the Labor-Management
13 Relations Act, 29 U.S.C. § 152(5), and is subject to the provisions of the Labor-Management
14 Reporting and Disclosure Act, 29 U.S.C. §§ 501-502.

15 41. Section 501 of the Labor-Management Reporting and Disclosure Act, 29 U.S.C.
16 § 501, provides that all agents and employees of labor organizations are fiduciaries with regard to
17 such organizations and in regard to their members. Said section requires such employees to hold
18 the Union's property and assets solely for the benefit of the organization and its members, and to
19 refrain from dealing with such labor organization as an adverse party or on behalf of an adverse
20 party, and from deriving any personal or pecuniary interest that conflicts with interest of such labor
21 organization. 29 U.S.C. § 501.

22 42. At all times material herein, through at least February 25, 2004, defendant Bonifay
23 was an agent and employee of Local 250, and therefore was vested with fiduciary responsibility
24 and obligations towards Local 250 and towards its members.

25 43. At all times material herein, through at least February 25, 2004, defendant Colcord
26 was an agent and an employee of Local 250, and in that capacity, was charged with fiduciary
27 responsibility and obligations towards Local 250 and towards its members.

44. At all times material herein, the collective bargaining agreements between Local 250 and AMR West, the membership dues and initiation fees of members under that contract, the membership lists, lists of contacts and other intangibles were the assets and property of Local 250, within the meaning of 29 U.S.C. section 501 and section 501(c).

45. Commencing on an unknown date in 2002 and culminating on or about February 25, 2004 and thereafter, defendant Bonifay breached his fiduciary obligations to Local 250 and to its membership by dealing with Local 250 as an adverse party, and by appropriating to his own pecuniary use and benefit the assets of Local 250, including the membership lists of Local 250 and the dues and fees of the Local 250 members, by diverting those dues and service fees to himself and to Colcord.

46. Commencing on an unknown date in 2002 and culminating on or about February 25, 2004 and thereafter, defendant Colcord breached his fiduciary obligations to Local 250 and to its membership by dealing with Local 250 as an adverse party, and by appropriating to his own pecuniary use and benefit the assets of Local 250, including the membership lists of Local 250 and the dues and fees of the Local 250 members, by diverting those dues and service fees to himself and to Bonifay.

47. In breaching their fiduciary obligations as described in the paragraphs above, defendants misappropriated the membership lists, access to the Union's meeting halls, and other assets and information they had acquired and obtained in their fiduciary capacity as Field Representatives of Local 250.

48. As a direct and proximate result of the conduct described above, Local 250 and its membership were deprived of the membership and of the dues and fees flowing from said relationships.

49. Defendants appropriated said assets of Local 250 to their own pecuniary and personal interests. The conversion of these assets to defendants' use is unlawful under section 501(c) of the Labor-Management Relations Act, 29 U.S.C. § 501(c).

50. Plaintiffs seek disgorgement of the assets thereby obtained by defendants.

1 51 Plaintiffs also seek an equitable accounting and attorneys' fees, as provided for in
2 the Labor-Management Reporting and Disclosure Act section 501(b), and in Business &
3 Professions Code section 17203.

4 52. Injunctive relief is appropriate and necessary to prevent similar unjust enrichment of
5 Defendants , as a result of the breach of their fiduciary obligations.

6 WHEREFORE, Plaintiffs pray for relief on the Second Cause of Action sought below.

7 **V. THIRD CAUSE OF ACTION**
8 **(Violation Of Section 302 Of The Taft-Hartley Act, 29 U.S.C. § 186)**

9 53. Local 250 and the individual Plaintiffs incorporate by reference as though fully set
10 forth the allegations of paragraphs 1 through and including paragraph 48 above

11 54. At all times material herein, Local 250 was a labor organization within the meaning
12 of the Labor-Management Relations Act, 29 U.S.C. § 301, et seq.

13 55. At all times material herein, DOE Defendant was an employer within the meaning
14 of section 2(2) of the Labor-Management Relations Act, 29 U.S.C. § 152(2) and 29 U.S.C. §
15 186(a). Section 302, 29 U.S.C. § 186 prohibits an employer from paying or agreeing to pay
16 anything of value to any employee of a labor organization in an attempt to influence said employee
17 in respect to his duties as a representative of employees.

18 56. Section 186(b) makes it unlawful for an employee of a Union to accept any such
19 thing of value.

20 57. Defendant DOE violated section 186 on or before February 25, 2004 by offering
21 Defendants Rutherford, Bonifay and Colcord a "thing of value" namely, a salaried position of
22 employment in an attempt to influence him in regard to the performance of his duties as a
23 representative of Local 250, and to encourage him to induce the members to decertify Local 250
24 and instead create an employee association to perform such services, at a time when Defendants
25 were still an employees of Local 250.

26 58. Defendants Rutherford, Bonifay and Colcord violated section 186(b) by accepting a
27 "thing of value" from employer DOE namely, a salaried position with a new employee association

1 in exchange for their failure to perform their fiduciary responsibilities for Local 250 and instead,
2 encouraging the decertification of Local 250 as the exclusive bargaining representative of AMR
3 West employees.

4 59 Plaintiffs seek disgorgement of the fees, profits and fees obtained, and any and all
5 gains received by defendants.

6 60. Plaintiffs seek an equitable accounting.

7 61. Plaintiffs seek injunctive relief to prevent further unjust enrichment by defendants.

8 WHEREFORE, Plaintiffs pray for the relief on the Third Cause of Action sought below.

9 **VI. FOURTH CAUSE OF ACTION**
10 **(Tortious Interference With Business Relations)**

11 62. Local 250 and the individual Plaintiff incorporate by reference as though fully set
12 forth the allegations of paragraphs 1 through and including paragraph 57 above.

13 63. At all times material herein, Local 250 had a long-standing business relationship
14 with the AMR West, pursuant to the terms of which the employees of AMR West became
15 members of Local 250. Local 250 provided such members with all representation services, in
16 exchange for Union dues and fees.

17 64. As set forth above, defendants, in conspiracy with each other, intentionally misused
18 their relationship with Local 250 and induced and encouraged the Members to sever their
19 longstanding relationship with Local 250, and instead retain them to perform services previously
20 performed by Local 250.

21 65. As a direct and proximate result of defendants' conduct described above, Plaintiff
22 Local 250 has been deprived of its longstanding business relationship with the Members, and as a
23 result of the dues and fees they received therefrom.

24 WHEREFORE, Plaintiffs pray for relief on the Fourth Cause of Action sought below.

25 **VII. FIFTH CAUSE OF ACTION**
26 **(Interference With Contractual Relations)**

27 66. Local 250 and the individual Plaintiffs incorporate by reference as though fully set
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1 forth the allegations of paragraphs 1 through and including paragraph 61 above.

2 67 At all times material herein, AMR West was party to a collective bargaining
3 agreement with Local 250, pursuant to the terms of which Local 250 provided a full range of
4 representational services to their members, and AMR West in turn remitted the Union dues and
5 fees to Local 250.

6 68. Said agreement required Local 250 to furnish all representational services to the
7 their members, including but not limited to the negotiations of their Memorandums of
8 Understanding, and the representation of members in their relations with their employer

9 69. Said agreements further provided that said AMR West would remit to Local 250
10 membership dues and fees owed to Local 250.

11 70. At all times material herein, Local 250 provided said services.

12 71. Defendants Rutherford, Bonifay and Colcord misused their positions of
13 employment with Local 250 as described above, and intentionally induced the Members to
14 terminate their membership with Local 250, so as to obtain the benefits of those contracts for
15 themselves.

16 WHEREFORE, Plaintiffs pray for relief on the Fifth Cause of Action sought below.

17 **VIII. SIXTH CAUSE OF ACTION**
18 **(Inducing Breach Of Contract)**

19 72. Local 250 and the individual Plaintiffs incorporate by reference as though fully set
20 forth the allegations of paragraphs 1 through and including paragraph 67 above.

21 73. At all times material herein, AMR West has had contracts with Local 250. Said
22 contracts provided the Members to remit their dues, initiation fees and service fees to Local 250 in
23 exchange for representation services provided to their members.

24 74. Said contracts further provided they would be renewed, unless the Local 250 no
25 longer represented a majority of employees of AMR West.

26 75. At all times material herein during their employment with Local 250, the services
27 provided under these agreements were provided by in part by defendants until February 26, 2004.

1 76. As a result of the conduct of defendants described above, the members breached
2 their contracts with the Plaintiffs.

3 WHEREFORE, Plaintiffs pray for relief on the Sixth Cause of Action sought below.

4 **IX. FRAUD**

5 77. Local 250 and the individual Plaintiffs incorporate by reference as though fully set
6 forth in the allegations of paragraphs 1 through and including paragraph 72 above.

7
8 78. Defendants at all relevant times willfully and deliberately submitted false and
9 fraudulent timesheets to their employer Local 250.

10 79. The time sheets stated that at all relevant work times, defendants were working for
11 Local 250 on projects for Local 250.

12
13 80. During relevant time periods, defendants from time to time, while working for
14 Local 250, were actually working for a competitor of Local 250, in order to induce Local 250
15 members to quit Local 250 and instead join the competitor of Local 250.

16 81. Defendants engaged in this knowing and willful fraud in order to induce Local 250
17 to rely on said time sheets to continue to pay salaries to defendants.

18
19 82. Local 250 did in fact rely on said timesheets and did pay salaries to defendants for
20 work not performed and in fact for work performed for a competitor of Local 250, all to the
21 detriment of Local 250 and its members.

22 **X. PRAYER FOR RELIEF**

23 Plaintiffs pray for judgment as follows:

24 1. For preliminary, permanent and mandatory injunctive relief, prohibiting defendants
25 or officers, agents, employers and all those acting in concert with them from committing any future
26 violations of law herein alleged.

27 2. For an Order requiring defendants to disgorge revenues and profits they have

1 obtained as a result of their unlawful conduct described above.

2 3. For an Order imposing punitive and exemplary damages in an amount sufficient to
3 punish the defendants for their misconduct and to deter such future conduct by defendants and
4 others, in an amount of at least five million dollars (\$5,000,000) .

5 4. For an award of restitution according to proof, pursuant to Business & Professions
6 Code section 17203.

7 5. For an equitable accounting, including but not limited to, Union dues, initiation fees
8 and service fees, as due and owing to Local 250.

9 6. For an award of reasonable attorneys' fees, as provided in Code of Civil Procedure
10 section 102.5.

11 7. For an Order divesting defendants of any attorneys' fees or other compensation
12 from the members and directing such fees be awarded to plaintiffs as civil penalties.

13 8 For costs of suit incurred herein.

14 9 For such other and further relief as the Court should deem just and proper.

15 Dated: February 26, 2004

16 WEINBERG, ROGER & ROSENFELD
17 A Professional Corporation

18 By: William Sokol
19 WILLIAM A. SOKOL
20 Attorneys for Plaintiffs

21 1/335680

27044170058

EXHIBIT 2

SEIU COPE LOCAL 250 CHECK-OFF AUTHORIZATION

(PLEASE PRINT CLEARLY)

First Name										M.I.		Last Name									
Gender (please check appropriately)										Birthdate (month/day/year)				Social Security Number							
<input type="checkbox"/> Male <input type="checkbox"/> Female																					
Street Address														Apt. No.							
City														State		Zip					
Home Email																					
Home Phone						Personal Cell Phone						Personal Pager									
Employer/Facility																					
Work Location/Campus														Date of Hire							
Department										Job Classification											
Shift: <input type="checkbox"/> AM <input type="checkbox"/> PM <input type="checkbox"/> Night Job Status: <input type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input type="checkbox"/> Per Diem <input type="checkbox"/> Short Hour <input type="checkbox"/> Casual/OnCall																					
Work Phone						Ext.		Work Cell Phone						Work Pager							
Work Email																					

In order to build political power for health care workers and make health care a priority for public officials, I hereby authorize SEIU Local 250 to file this payroll deduction with my employer and for my employer to forward the amount specified as a voluntary contribution to SEIU COPE and to transfer such funds to Local 250.

☐ \$3 per month ☐ \$5 per month ☐ \$10 per month ☐ \$_____ per month

This authorization shall remain in full force and effect until revoked in writing by me. This authorization is voluntarily made on my specific understanding that:

- I am not required to sign this form or make COPE contributions as a condition of my employment by my employer or membership in the union;
- I may refuse to contribute without any reprisal;
- Only union members and executive/administrative staff who are U.S. citizens are eligible to contribute to SEIU COPE;
- The amounts on this form are merely a suggestion, and I may contribute more or less by this or some other means without fear of favor or disadvantage from the union or my employer;
- SEIU COPE uses the money it receives for political purposes, including but not limited to addressing political issues of public importance and contributing to and spending money in connection with federal, state and local elections.
- Contributions to SEIU COPE are not tax deductible for federal income tax purposes

Member Signature _____ Date Signed _____

EXHIBIT 3

27044170060



www.seiu250.org

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President

JOAN EMSLIE
Secretary-Treasurer

SHIRLEY WARE
Secretary-Treasurer
1988-1999

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January 26, 2004

To: All Local 250 Staff (non-OPEIU)

From: Sal

Re: March Primary Volunteer Shifts

Just a reminder that Local 250 has committed to do its part for the March 2nd Presidential Primary election. In addition to important State Senate, Assembly and local races, we are committed to the passage of state Proposition 56, the Budget Accountability Act. The Local 250 plan for the March Primary includes the following:

Staff will complete:

- Four volunteer shifts prior to GOTV weekend, at least two of which are precinct walking shifts
- A volunteer shift on either the Saturday or Sunday of GOTV weekend
- All day on Monday & Tuesday, March 1st and March 2nd (election day)

Additionally, field staff have agreed to recruit the equivalent of 3% of the members on their routes to do at least one volunteer shift.

It is important that you contact the political staff organizer assigned to your area as soon as possible so we can begin scheduling members and staff into shifts for work that needs to be done now, and not wait until the last minute.

Volunteer shift sign up sheets will be in your mailbox. Please turn your sheet in to the political organizer assigned to your area by Friday, January 30th.

Thank you for your continued hard work to ensure our success on Election Day. If you have any questions or concerns regarding this matter, please do not hesitate to contact Dan Martin.

SR/kj/seiu250/afl-cio

HEADQUARTERS: 560 Thomas L. Berkley Way (formerly 20th Street) Oakland CA 94612 Phone 510.251.1250 Toll Free 800.585.4250 Fax 510.763.2680

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Service Employees International Union, AFL-CIO, CLC

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